

NEWSLETTER

Volume 1 Issue 6

August, 1997

RECENT ISSUES

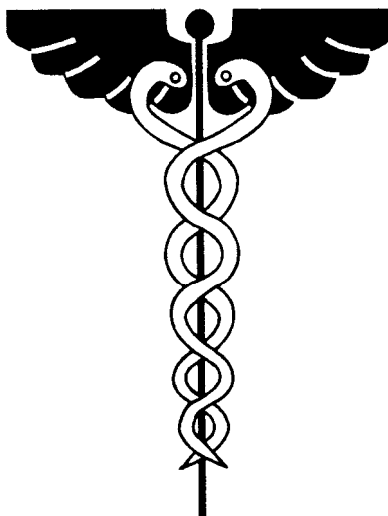
BOARD UPHELD BY NH SUPREME COURT

In an important ruling for the Medical Board, the New Hampshire Supreme Court upheld the actions of the Board in its efforts to discipline Edward L. Rowan, M.D.

The Rowan case developed when the board received a complaint from a former patient of the practitioner alleging a sexual relationship while she was being treated by the then Concord psychiatrist. In the complaint, she alleged that Dr. Rowan was re-locating to New Zealand. One month later, the former patient wrote to the board withdrawing her complaint.

The Board initiated an investigation carried on after Dr. Rowan closed his practice and moved to New Zealand. The case turned on the refusal of Dr. Rowan to make available to the Board materials which it requested in its investigation. The Board contended that Dr. Rowan's "blatant refusal to provide even minimal assistance" to the investigation demonstrated contempt towards his "legal and ethical responsibilities as a physician." The court ruled that

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RECENT CHANGES TO THE BOARD...

The Board accepted with regret the resignations of 2 members during the past 6 months. Paul Racicot, MD resigned in March to pursue other compelling professional opportunities. Ray Merrill, MD retired from practice in December, 1996 and resigned
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RECENT CHANGES, Continued from page 1...

from the Board at the end of June, 1997 to pursue some well-deserved travel and leisure time. The Board sincerely regrets the loss of both physicians from the Board and wishes them the very best in their future endeavors.

Dana A. Merrithew, MD was appointed by Governor Shaheen to fill the unexpired term of Dr. Racicot. Dr. Merrithew practices internal medicine in Plymouth and has served for several years on the Medical Review Subcommittee. The Board welcomes Dr.

Merrithew and expects that his experience and insight will be very valuable.

The loss of Dr. Merrithew on the Medical Review Subcommittee leaves a vacancy on that Committee. The Board hopes to nominate a physician in family practice who has some experience in quality assurance reviews. Anyone interested in this committee should contact Karen Lamoureux at the Board's offices for more information.

RULES REVISED Med 100-600

During the past six months, the Board has revised and readopted all the administrative rules authorized under the Medical Practice Act and the Physician Assistant Practice Act. The revised rules will be mailed to every licensee. We urge you to review these rules carefully. The contain regulations that must be adhered to by all licensees. Lack of familiarity with these rules is not an acceptable defense in the event of a violation.

DISCIPLINARY ACTION

The following final disciplinary actions were taken by the Board from February 1, 1997-August 1, 1997.

Alan E. Awrich, MD 2/1/97

Settlement Agreement-30 day suspension of license with monitoring for inappropriate prescribing.

Donald R Bisson, RCP 4/29/97

Decision and Order-Fine and reprimand for securing a license under fraudulent circumstances.

Michelle Putnam, RCP 4/29/97

Decision and Order - Fine and reprimand for securing a license under fraudulent circumstances.

Michael S. Gaylor, MD 5/16/97

Decision and Order - Suspension of license for 1 year for sexual misconduct.

Lyubov Y. Gorelik, MD 7/8/97

Order of Conditional Approval - Temporary training license granted during appeal of dismissal from a prior training program.

Reinaldo delosHeros, MD 7/8/97

Settlement Agreement - Voluntary surrender of license in lieu of disciplinary action based on criminal conviction and license suspension in another jurisdiction.

Greg R Thompson, MD 7/8/97

Decision and Order - License revoked effective 9/1/97 for sexual misconduct.

NEWSLETTER LEGISLATIVE UPDATE

During the recent legislative session, the Board requested that Representative Ann Torr of Dover introduce 2 bills. The Board thanks Representative Torr for her unfailing support and hard work on their behalf.

The first bill, HB 790 would have enabled the Board to hire an executive director and 2 full time investigators. In order to fund these positions, the Board requested that all the licensing fees collected by the Board be allocated to the Board's expenses. This bill was voted "inexpedient to legislate" in a committee of the House.

The Second bill, HB 537 created the Office of Allied Health Professions. This bill established independent regulatory boards for each of the 4 allied health professions currently regulated by the Board of Medicine along with the Board of Speech Language Pathology. (Physician Assistants will continue to be regulated by the Board of Medicine) The "Office" combines the financial and administrative duties of the 5 new boards into a single unit for the sake of efficiency. This bill passed both houses and was signed by the Governor in June.

Also introduced during the recent session was a bill that would consolidate all health related licensing boards into a single bureau in the Department of Health and Human Services. This bureau would be budgeted and staffed at the discretion of the department and would combine services for all professions from massage and embalming to dentists and physicians. This bill was re-referred for additional study.

The Board has consistently opposed this type of bureaucratic
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USING CHAPERONES PROTECT YOUR PATIENTS... AND YOURSELF

Using nurses or medical assistants as chaperones in the examining room has long been recommended for physicians performing pelvic and breast examinations. In recent years, however, the Board has received an increasing **number** of complaints of sexual impropriety regarding family physicians, "company doctors", and many other specialties.

These allegations are particularly difficult to investigate due to the fact that there is seldom any witness to the physician-patient interaction. These investigations can drag on for a significant period of time and be very **difficult** for both the patient and the physician.

Few physicians believe that they are or can be threatening to their patients. But, as any doctor who has had complaints of this nature lodged against them can tell you, it is very hard to know, in advance, who may be offended by your behavior.

Virtually all of this could be avoided by the routine use of chaperones in the examining room. Your patients will appreciate it and it may save you from the most embarrassing investigation you can imagine. It may even save your reputation and career. Primarily, it's for your protection.

CHAPERONES FOR LM.E EXAMINATIONS AND OTHER SHORT-TERM ENCOUNTERS.

Physicians performing examinations in which the patient has little or no choice in who will provide the examination are at particular risk for allegations of improper behavior.

There is little time to establish the trust necessary to allow the patient to be comfortable with the

touching and prodding of a stranger whose interests may lie with the insurer and not with the patient.

Some of these examinations are required for patients who are resistant and can become extremely adversarial. The Board has received complaints ranging from sexual misconduct or verbal harassment to intentional infliction of pain.

In these types of examinations, it is also important for physicians to consider using a chaperone in the examining room. Unless there is a third party present in the examining room, the Board's determination of professional misconduct will come down to the credibility of the complainant and the physician. If the patient's version of events is credible, the physician may regret not having used a chaperone.

Some patients mistakenly believe that physicians are required to use chaperones for certain types of examinations. The Board has no such requirement and failure to use a chaperone is not, in itself, grounds for disciplinary action. But the use of chaperones is highly recommended, both for your protection and for the comfort of your patients.

LEGISLATIVE UPDATE

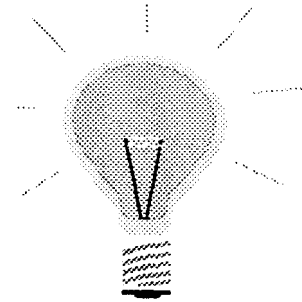
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control of its operations and will vigorously oppose this bill during the next legislative session.

Finally, a Senate bill was passed to study the feasibility of requiring that the Board compile and publish physician profiles similar to those being published in Massachusetts during the past year. The Board looks forward to working with the legislature to create a fair and accurate profile that **consumers** will find **useful** in choosing a physician.

NEWSLETTER

URGENT REMINDER LATE RENEWAL



ALL PHYSICIAN LICENSES EXPIRE ON JUNE 30 OF EACH YEAR. IF YOU HAVE NOT RENEWED YOUR LICENSE, YOU MAY STILL RENEW ON OR BEFORE SEPTEMBER 30. A LATE FEE OF **\$100** WILL BE CHARGED.

AFTER SEPTEMBER 30, ALL LICENSES WILL BE FINALLY LAPSED AND YOU WILL NOT BE ABLE TO RENEW.

SUPREME COURT

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the Board's actions were appropriate, and cited NH Statute 329: 18, VII which states that "complete copies of records concerning any patient whose treatment may be material to allegations of possible professional misconduct being investigated by the board" must be provided by the physician. Finally, the Court concluded that the New Hampshire Medical Board "had the authority to pursue the investigation and attendant disciplinary sanctions."

The case is entitled "Appeal of Edward L. Rowan, M.D." and was handed down on June 5, 1997. Chief Justice **Brock** did not sit; the remaining four Justices were unanimous.